



**ISLAND COUNTY
PLANNING & COMMUNITY DEVELOPMENT**

ISLAND COUNTY PLANNING COMMISSION

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~FINDINGS AND CONCLUSIONS~

TO: Board of Island County Commissioners

FROM: Island County Planning Commission

DATE: May 23, 2016

REGARDING: Regulation Amendment to Fish and Wildlife Habitat protection regulations, Chapter 17.02.B of the Island County Code to address Growth Management Hearings Board Order 14-2-0009 issued June 24, 2015.

SUMMARY

Island County Planning & Community Development has revised fish and wildlife habitat protection standards in order to address an order from the Washington State Growth Management Hearings Board (GMHB). On September 22, 2014 the Island County Board of Commissioners adopted new Fish and Wildlife Habitat protection regulations (ICC 17.02B). On June 24, 2015, the Growth Management Hearings Board (GMHB) issued an order in response to an appeal asserting that the County's update complied with the Growth Management Act with respect to four of the issues raised in the appeal, and did not comply with respect to seven other issues. The GMHB order required the County to address these issues by June 24, 2016. In order to address three of the seven issues in this order, Island County intends to adopt revised regulations before June 24, 2016.

FINDINGS OF FACT

1. Island County received an order from the Growth Management Hearings Board to review and update the Island County Comprehensive Plan and development regulations for Fish and Wildlife Habitat Conservation Areas.

2. On September 22, 2014 Island County adopted new Fish and Wildlife Habitat Conservation Areas policies and regulations.
3. On June 24, 2015, the Growth Management Hearings Board (GMHB) issued an order in response to an appeal finding that the County's update complied with the Growth Management Act with respect to four of the issues raised in the appeal, and did not comply with respect to seven other issues.
4. Although not required by GMA, Island County elected to obtain current scientific analysis on Island County's Natural Area Preserve, the Western Toad, Westside Prairies, Oak Woodlands and Herbaceous Balds to ensure the following actions are fully informed by and based on Best Available Science.
5. The Planning Commission reviewed the May 13, 2016 Staff Report, along with the BAS Reports on Natural Area Preserves, the Western Toad, and Prairie/Herbaceous Balds and Oak Woodlands habitats. The Commission considered public comment submitted in conjunction with its workshop, held on May 9, and at its public hearing held on May 23, 2016.

The May 13 Staff Report is hereby incorporated into the Planning Commission findings. To the extent there are any inconsistencies, the findings set forth herein shall govern.

6. Natural Area Preserves. Island County contains only one NAP, referred to as the Naas NAP. Based on consultation with DNR and a review of BAS, the County has learned that this NAP is adequately protected except for possibly on the south side. On the north and east sides, existing land uses truncate the functions additional buffering might provide. To the west, lies the remainder of the property (some of which is developed), and Puget Sound, with its associated SMA protections. On the south side, the forest areas extends onto the SPU/Camp Casey property, and buffer management is "warranted to ensure that the forest community within the NAP is adequately protected from edge effects, particularly blowdown susceptibility." As such, while BAS does not support buffering in most instances, County regulations should provide for review in the limited circumstances where scientifically supportable.

The Planning Commission finds that not requiring buffers adjacent to state natural area preserves, natural resource conservation areas and state wildlife areas is supported by BAS, as long as the areas encompass land required for species preservation to ensure no net loss of habitat functions and values, as confirmed by the Planning Department. If buffers are required they should reflect the habitat sensitivity and the type and intensity of activity proposed to be conducted nearby will be sufficient to ensure no net loss of habitat functions and values. The language recommended for adoption is consistent with these findings.

7. Western Toad. The ESA does not list the Western Toad as endangered or threatened, and the state does not list it as threatened or sensitive. During the County's last review and when the matter was in litigation before the Growth Board, the federal government identified the Toad as a species of concern. Its status has since changed and it is no longer being considered for listing. The state status is apparently based on lack of information, rather than rarity. While the population is unknown, it is believed to exceed 100,000 in number. Whether the species is in decline or not is unknown. If it is in decline, the causal factors are unknown. Development has not been identified as a habitat constraint within Island County. Given these facts, BAS does not support further

protections and as set forth in further detail in the Staff Report, listing as a species of local importance does not meet County criteria. However, the County could elect to protect documented Western Toad breeding sites through its existing wetland and stream regulations.

The Planning Commission finds that Western Toad breeding sites, as documented by scientifically verifiable data from WDFW, or a qualified professional, should be protected through the County's wetland and stream critical areas regulations, presently codified in title 17,.

8. Prairies, Herbaceous Balds, and Oak Woodlands. The County's BAS Report reviewed these areas and identified 13 prairie and oak woodland areas within unincorporated Island County, with one located entirely in shoreline jurisdiction, and eight partially or potentially within shoreline jurisdiction. The majority of the acreage is protected through existing critical areas regulation requirements. However, there is some acreage which may not include regulated features. To ensure these areas are protected, the Planning Commission finds that listing the Prairies, Herbaceous Balds and Oak Woodlands habitats under 17.02B.510(C) as habitats of local importance under the header of: "Prairie and Oak Woodlands, to the extent outside SMP jurisdiction" would ensure these areas are protected through the critical area regulatory structure. . This approach is supported by and consistent with best available science.

CONCLUSION

The Island County Planning Commission has reviewed the proposed changes to Island County Code Chapter 17.02B and hereby recommends that the Board of County Commissioners adopt an ordinance to incorporate the proposed amendments, attached hereto as Attachment A into Island County Code.

Respectfully submitted through the Island County Planning Department to the Board of Island County commissioners, pursuant to RCW 36.70.430, this _____ day of _____, 2016 by,

Dean Enell
Chair, Island County Planning Commission

Enclosures:

Exhibit "A" –Amendments to the Island County Code Chapter 17.02B